

1 MR. FINAN: Okay.

2 BY MR. SPENGLER:

3 Q And in this e-mail sent on May 30, 2019
4 again, you wrote that Russ does claim that this is a
5 safety issue, however, the customer has been placing
6 the batteries on the rack. In addition, they also
7 take the batteries off. There or the customer never
8 once mentioned that they saw this as a safety issue.
9 Other than what the customer, the customer not
10 mentioning that they saw it as a safety issue and
11 your own personal opinion based on your inspection
12 of the facility, on what basis, if any, do you claim
13 that this is not an actual safety issue?

14 MR. FINAN: Object to the form.

15 A The facility itself, it's clean. There's no
16 obstructions in front of the racks. The racks are
17 your basic standard battery racks that we have at
18 other customers. The batteries again that we
19 deliver were not extremely heavy batteries, not out
20 of the normal. We're talking 37 pound batteries and
21 in the job description, anything under 75 pounds.
22 So, so there was no safety concern present based on,
23 like I say, the customer, ourselves. Even, like I
24 say, when we sent the pictures up to our corporate,
25 there was no cause for a safety issue.

1 Q Okay. And again the foundation for that
2 would be all of the documents that you've reviewed
3 today and your own personal knowledge of the
4 circumstances?

5 MR. SPENGLER: Well, can we ask him what
6 his -- I'm sorry. Go ahead.

7 MR. FINAN: Yes.

8 Q What is your basis for your testimony that
9 you just gave about your understanding of how the
10 batteries came to be placed upon the rack during the
11 incident in question involving Mr. Dorvit's
12 termination?

13 A It was based on conversation with Chris
14 Kines and actually doing the site visit myself.

15 Q Okay. During that visit, did you personally
16 take any photographs of the racking system and the
17 racks and the battery on the rack?

18 A I don't recall specifically.

19 Q Okay. If you look at the exhibit I handed
20 you 42 and Bates page 1428, do you know whether you
21 took the picture that's shown there and what it's a
22 picture of?

23 A I don't recall.

24 Q Okay. Do you recall whether this is a
25 picture of the actual rack itself at Atlantic Coast

1 Toyota Lift?

2 A This is their rack area, yes.

3 Q Okay. Do you know whether this picture was
4 taken at the time that yourself and Mr. Kines
5 visited that location?

6 A I don't recall.

7 Q Okay. You do understand and your notes and
8 statements reflect that the batteries in question --
9 can you point them out on the picture on 1428 which
10 shelf they're located on?

11 A Sure. The batteries in question would be on
12 the second, second shelf here.

13 Q Okay. So not the one on the very -- closest
14 to the ground but the second one up, correct?

15 A Yeah. The second tier.

16 Q And they're, I think you described them as
17 automotive sized batteries. Is that what you said?

18 A Correct. Your standard automotive
19 batteries.

20 Q And so do you know what the batteries are on
21 the very bottom shelf of this rack depicted on 1428?

22 A The one on the far left there, that would be
23 what we would consider like a 4D. That would be
24 your heavier type battery. That particular battery,
25 the labeling that's on there isn't our label meaning

1 A He would not have had an opportunity to do
2 so.

3 MR. SPENGLER: Okay. That's my only
4 question. Thank you.

5 MR. FINAN: And one last question.

6 EXAMINATION

7 BY MR. FINAN:

8 Q Was it clear to you, Mr. Christie, from your
9 last communication with Mr. Dorvit about the racking
10 of batteries on any shelf at Atlantic Coast Toyota
11 Lift that he was unequivocally refusing to do so?

12 A Yes.

13 MR. FINAN: No further questions. I
14 think we're good.

15 MR. SPENGLER: I'm sorry.

16 EXAMINATION

17 BY MR. SPENGLER:

18 Q And to be clear, you never asked Mr. Dorvit
19 about the condition of his knee on or after May 22,
20 2019?

21 A No, because it had not came up prior.

22 Q Okay. And, but the customer did report to
23 you that Mr. Dorvit had claimed he had a knee
24 injury?

25 A The customer had said that that's what